

§ 40.185

2009, or more than \$763.222 per thousand on and after April 1, 2009, you may place a note to that effect in the record instead of the actual price).

(b) *Exceptions.* (1) The record of removal may consist of the manufacturer's commercial documents, such as copies of invoices, rather than records prepared expressly to meet the requirements of this section. If commercial documents are used, they must be kept at the factory, contain all the details required by this section, and be clear and accurate. Commercial documents that do not show specifically the tax classification of tobacco products (including sale price of large cigars) are still acceptable if they contain adequate information for an appropriate TTB officer to readily ascertain the applicable tax.

(2) Where tobacco products are delivered within the factory directly to the consumer, the record need not show the name and address of the consumer.

(Sec. 2128(c), Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5741))

[T.D. ATF-420, 64 FR 71941, Dec. 22, 1999, as amended by T.D. TTB-75, 74 FR 14483, Mar. 31, 2009]

§ 40.185 Retention of records.

All records required to be kept under this part, including copies of authorizations, claims, inventories, notices, reports, returns and schedules, shall be retained by the manufacturer for three years following the close of the calendar year in which filed or made, or in the case of an authorization, for three years following the close of the calendar year in which the operation under such authorization is concluded. Such records shall be kept in the factory or a place convenient thereto, and shall be made available for inspection by any appropriate TTB officer upon his request.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 40.186 Record in support of transfers in bond.

Every manufacturer of tobacco products shall keep a supporting record of tobacco products transferred in bond to or received in bond from other factories, and shall make the entries therein at the time of each receipt or

27 CFR Ch. I (4-1-09 Edition)

removal of such products. Such supporting records shall show the date of receipt or removal, the name of the manufacturer and address of the factory from which received or to which removed or the permit number of such factory, and the kind and quantity of tobacco products. Where the manufacturer keeps, at the factory, copies of invoices or other commercial records containing the information required as to each receipt and removal, in such orderly manner that the information may be readily ascertained therefrom, such copies will be considered the supporting record required by this section.

(Approved by the Office of Management and Budget under control number 1512-0358)

(72 Stat. 1423, as amended; 26 U.S.C. 5741)

[T.D. 6871, 31 FR 35, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 40.187 Record of sales prices of large cigars.

Every manufacturer of tobacco products who removes large cigars from the factory shall keep such records as are necessary to establish and verify the price for which the cigars are sold, in accordance with § 40.22. The record shall be a continuing one of each brand and size of cigar so that the sale price on which the tax is based may be readily ascertained.

[T.D. ATF-307, 55 FR 52743, Dec. 21, 1990. Redesignated and amended by T.D. ATF-420, 64 FR 71941, Dec. 22, 1999; T.D. ATF-420, 65 FR 1676, Jan. 11, 2000]

INVENTORIES AND REPORTS

§ 40.201 Inventories.

Every manufacturer of tobacco products shall make true and accurate inventories on Form 5210.9, which inventories shall include all tobacco products and tobacco on hand required to be accounted for in the records kept under this part. The manufacturer shall make such an inventory at the time of commencing business, which shall be the effective date of the permit issued upon original qualification under this part; at the time of transferring ownership; at the time of changing

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 40.211

the location of his factory to a different region; at the time of concluding business; and at such other time as any appropriate TTB officer may require. Each inventory shall be prepared in duplicate, and shall be subject to verification by an appropriate TTB officer. The original of each such inventory shall be submitted to the appropriate TTB officer, and the duplicate shall be retained by the manufacturer.

(Approved by the Office of Management and Budget under control number 1512-0358)

(72 Stat. 1422, 1423, as amended; 26 U.S.C. 5721, 5741)

[T.D. 6871, 31 FR 35, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

§ 40.202 Reports.

(a) *Monthly report.* Every manufacturer of tobacco products shall make a report on Form 5210.5, in duplicate, for each month and for any portion of a month during which he engages in such business. Such report shall be made regardless of whether any operations or transactions occurred during the month or portion of a month covered therein. The report for a month or portion of a month in which business is commenced or is concluded shall be conspicuously marked "Commencing Report" or "Concluding Report," respectively. The original of the report shall be submitted to the appropriate TTB officer not later than the 20th day of the month succeeding the month covered therein, and the duplicate shall be retained by the manufacturer. Each report shall show, for the period covered, the total quantity of tobacco products:

- (1) Manufactured,
- (2) Received in bond,
- (3) Received by return to bond,
- (4) Disclosed by inventory as an overage,
- (5) Removed subject to tax,
- (6) Removed in bond,
- (7) Otherwise disposed of without determination of tax,
- (8) Disclosed by inventory as a shortage, and
- (9) On hand, in bond, beginning of and end of month.

(b) *Report of wholesale prices of large cigars removed before January 1, 1991.* Every manufacturer of tobacco products who removes large cigars from his factory, and who issues announcements such as those described in this paragraph, shall make a report of each establishment or change of wholesale price (suggested delivered price to retailers) for large cigars. The report shall consist of a copy of each general announcement that the manufacturer issues within his organization or to the trade about establishment or changes of wholesale prices. Only one copy of an announcement need be submitted even if it relates to tobacco products removed subject to tax from more than one factory. If this copy does not show the actual date when the announcement was issued, or identify the factory or factories from which removals of the cigars covered by the announcement are made, then the copy shall be annotated to show this information. The factory or factories shall be identified either by permit number(s) or by name, city and state. If an intraorganizational announcement involves a forthcoming price change or new product which at the time of issuance is to remain confidential until a later date, the manufacturer may include a statement to this effect on the copy submitted. The copy shall be submitted to the appropriate TTB officer within five business days after the day issued.

(Approved by the Office of Management and Budget under Control No. 1512-0358)

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5722))

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-40, 42 FR 5001, Jan. 26, 1977; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-307, 55 FR 52743, Dec. 21, 1990; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

PACKAGES

§ 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon